
STATUTORY INSTRUMENTS

2008 No. 1879

The Employment and Support Allowance
(Consequential Provisions) (No. 3) Regulations 2008

PART 9

Tax Credits and Child Benefit

Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

20.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “claimant” insert—

““contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;” and

(ii) after the definition of “week” insert—

““the Welfare Reform Act” means the Welfare Reform Act 2007.”; and

(b) after paragraph (4)⁽²⁾ add—

“(5) For the purpose of these Regulations—

(a) two or more periods of entitlement to employment and support allowance are linked together if they satisfy the conditions in regulation 145 of the Employment and Support Allowance Regulations 2008⁽¹²⁾; and

(b) a period of entitlement to employment and support allowance is linked together with a period of entitlement to statutory sick pay if it follows that period within 12 weeks.”.

(3) In regulation 6⁽³⁾ (periods of illness or incapacity for work)—

(a) in the heading for “or incapacity for work” substitute “, incapacity for work or limited capability for work”;

(b) in paragraph (1)—

(i) after sub-paragraph (c) for “or” substitute—

“(cc) is paid an employment and support allowance under Part 1 of the Welfare Reform Act, or”;

(1) [S.I. 2002/2005](#).

(2) Paragraph (4) was inserted by [S.I. 2003/701](#).

(12) [S.I. 2008/794](#).

(3) Regulation 6 was substituted by [S.I. 2003/701](#).

- (ii) in sub-paragraph (d) after “on the grounds of incapacity for work” insert “or limited capability for work”;
- (c) in paragraph (4)—
 - (i) after “paragraph (1)(c)” insert “or employment and support allowance as specified in paragraph (1)(cc)”; and
 - (ii) after “income support” the second time it occurs insert “or employment and support allowance”.
- (4) In regulation 9(4) (disability element and workers who are to be treated as at a disadvantage in getting a job)—
 - (a) for paragraph (2) substitute—

“(2) Case A is where the person has, for at least one day in the preceding 182 days (“the qualifying day”), been in receipt of—

 - (a) higher rate short-term incapacity benefit;
 - (b) long-term incapacity benefit;
 - (c) severe disablement allowance; or
 - (d) employment and support allowance where entitlement to employment and support allowance or statutory sick pay has existed for a period of 28 weeks immediately preceding the qualifying day comprising one continuous period or two or more periods which are linked together.”;
 - (b) in paragraph (6)—
 - (i) for sub-paragraph (a) substitute—

“(a) has received—

 - (i) on account of his incapacity for work, statutory sick pay, occupational sick pay, short-term incapacity benefit payable at the lower rate or income support, for a period of 140 qualifying days, or has been credited with Class 1 or Class 2 contributions under the Contributions and Benefits Act for a period of 20 weeks on account of incapacity for work, and where the last of those days or weeks (as the case may be) fell within the preceding 56 days; or
 - (ii) on account of his having limited capability for work, an employment and support allowance for a period of 140 qualifying days, or has been credited with Class 1 or Class 2 contributions under the Contributions and Benefits Act for a period of 20 weeks on account of having limited capability for work, and where the last of those days or weeks (as the case may be) fell within the preceding 56 days;”;
 - (ii) after “Contributions and Benefits Act” the second time it occurs add “or a period of limited capability for work within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations 2008”;
 - (c) in paragraph (7) for sub-paragraph (b) substitute—

“(b) has, within 56 days before the first day of that period of training for work, received—

 - (i) higher rate short-term incapacity benefit;
 - (ii) long-term incapacity benefit;

(4) Regulation 9 was substituted by [S.I. 2003/701](#).

- (iii) severe disablement allowance; or
- (iv) contributory employment and support allowance where entitlement to that allowance or statutory sick pay has existed for a period of 28 weeks comprising one continuous period or two or more periods which are linked together provided that, if the person received statutory sick pay, the person satisfied the first and second contribution conditions set out in paragraphs 1 and 2 of Schedule 1 to the Welfare Reform Act.”.

(5) In regulation 13(6) (entitlement to child care element of working tax credit) after sub-paragraph (g) add—

- “(h) contributory employment and support allowance where entitlement to that allowance or statutory sick pay has existed for a period of 28 weeks comprising one continuous period or two or more periods which are linked together provided that, if the person received statutory sick pay, the person satisfied the first and second contribution conditions set out in paragraphs 1 and 2 of Schedule 1 to the Welfare Reform Act.”.

(6) In regulation 18(5) (50 plus element)—

- (a) after sub-paragraph (e) omit “or”; and
- (b) after sub-paragraph (f) add—
 - “or
 - (g) an employment and support allowance.”.

Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002

21.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(5) are amended as follows.

(2) In regulation 7 (social security income)—

- (a) in paragraph (1)(a)(6) for “or the Jobseekers Act 1995” substitute “, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007”; and
- (b) in paragraph (3)(7) in Table 3—
 - (i) in the heading for “or the Jobseekers Act 1995” substitute “, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007”; and
 - (ii) after “25. A payment in lieu of milk tokens or the supply of vitamins under the Welfare Foods Regulations 1996.” add—

“**26.** An income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.”.

Amendment of the Child Tax Credit Regulations 2002

22.—(1) The Child Tax Credit Regulations 2002(8) are amended as follows.

(2) In regulation 3(1) (circumstances in which a person is or is not responsible for a child or qualifying young person) in Rule 4, Case E, after “incapacity benefit” the first time it occurs insert “or contributory employment and support allowance payable under Part 1 of the Welfare Reform Act 2007”.

(5) [S.I. 2002/2006](#).

(6) Paragraph (1) was amended by [S.I. 2003/732](#).

(7) In paragraph (3) Table 3 was amended by [S.I. 2003/732](#) and 2815.

(8) [S.I. 2002/2007](#). In regulation 3(1), Rule 4, Case E was inserted by [S.I. 2004/762](#).

(3) In regulation 5(4)(c)(9) (maximum age and prescribed conditions for a qualifying young person) after “income support” insert “, income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007”.

Amendment of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002

23. In regulation 4 of the Tax Credits (Income Thresholds and Determinations of Rates) Regulations 2002(10) (social security benefits prescribed for the purposes of section 7(2) of the Act) after sub-paragraph (d) add—

“(e) an income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.”.

Amendment of the Child Benefit (General) Regulations 2006

24. In regulation 8(2) of the Child Benefit (General) Regulations 2006(11) (child benefit not payable in respect of qualifying young person: other financial support)—

(a) after sub-paragraph (c) omit “or”; and

(b) after sub-paragraph (d) add—

“or

(e) employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.”.

(9) Regulation 5(4) was amended by [S.I. 2006/222](#).

(10) [S.I. 2002/2008](#). Regulation 4 was amended by [S.I. 2003/2815](#).

(11) [S.I. 2006/223](#).